

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

v.

JOHN DOE SUBSCRIBER ASSIGNED IP  
ADDRESS 23.114.178.178,

Defendant.

Case No. [21-cv-07985-DMR](#)

**ORDER ON EX PARTE APPLICATION  
FOR LEAVE TO SERVE THIRD-  
PARTY SUBPOENA**

Re: Dkt. No. 8

Plaintiff Strike 3 Holdings, LLC filed an ex parte application for leave to serve a third-party subpoena prior to a Rule 26(f) conference. The court finds that:

1. Plaintiff has established that “good cause” exists for it to serve a third-party subpoena on AT&T U-verse (hereinafter the “ISP”). *See UMG Recording, Inc. v. Doe*, No. C 08-1193 SBA, 2008 WL 4104214, \*4 (N.D. Cal. Sept. 3, 2008); *Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d 1, 6-7 (D.D.C. 2008);

2. Plaintiff may serve the ISP with a Rule 45 subpoena commanding the ISP to provide Plaintiff with the true name and address of the Defendant to whom the ISP assigned an IP address as set forth on Exhibit A to the Complaint. Plaintiff shall attach to any such subpoena a copy of this Order;

3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any service provider that is identified in response to a subpoena as a provider of Internet services to one of the Defendants;

4. If the ISP qualifies as a “cable operator,” as defined by 47 U.S.C. § 522(5), which states:

the term “cable operator” means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable

1 system, or (B) who otherwise controls or is responsible for, through  
2 any arrangement, the management and operation of such a cable  
3 system

4 the ISP shall comply with 47 U.S.C. § 551(c)(2)(B), which states:

5 A cable operator may disclose [personally identifiable] information if  
6 the disclosure is . . . made pursuant to a court order authorizing such  
7 disclosure, if the subscriber is notified of such order by the person to  
8 whom the order is directed . . .

9 by sending a copy of this Order to the Defendant; and

10 5. Plaintiff may only use the information disclosed in response to a Rule 45 subpoena  
11 served on the ISP for the purpose of protecting and enforcing Plaintiff's rights as set forth in its  
12 Complaint.

13 6. The ISP shall serve a copy of the subpoena and a copy of this order on the subscriber  
14 within 30 days of the date of service on the ISP. The ISP may serve the subscribers using any  
15 reasonable means, including written notice sent to the subscriber's last known address, transmitted  
16 either by first-class mail or via overnight service.

17 7. Each subscriber and the ISP shall have 30 days from the date of service upon him, her,  
18 or it to file any motions in this court contesting the subpoena (including a motion to quash or  
19 modify the subpoena). If the 30-day period lapses without the subscriber contesting the subpoena,  
20 the ISP shall have 10 days to produce to Plaintiff the information responsive to the subpoena with  
21 respect to that subscriber.

22 8. The ISP shall preserve all subpoenaed information pending the ISP's delivering such  
23 information to Plaintiff or the final resolution of a timely filed motion to quash the subpoena with  
24 respect to such information.

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**IT IS SO ORDERED.**

  
Donna M. Ryu

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